



S. No.273

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3229 of 2005 (O&M)

Date of Decision:07.07.2026

Bishnu Mati

.....Appellant

Vs.

Joginder and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. K.S. Dhanora, Advocate and
Ms. Kritika Mandhan, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent No.4.

Yashvir Singh Rathor, J. (Oral)

1. This appeal has been instituted by claimant against the Award dated 21.12.2004 passed in MACT case No.48 of 2001 decided by the Motor Accident Claims Tribunal, Hisar (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988, for enhancement of compensation vide which a sum of Rs.1,50,000 has been awarded as compensation to the claimant on account of death of Lal Bahadur in a motor vehicular accident which took place due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle bearing No.HR-338/0029 (**hereinafter referred to as 'offending vehicle'**) alongwith interest @6% per annum from the date of award till realisation.



2. From the pleadings of parties, following issues were framed by the learned Tribunal:-

“1. Whether Lal Bahadur had died in an accident which occurred in the intervening night of 18/19.3.2000 due to rash and negligent driving of car bearing registration No.HR-338/0029 by respondent No.1 Joginder?OPP

2. Whether the claimant is entitled to claim compensation, if so, to what amount and from whom?OPP

3. Whether the vehicle was not driven by the person holding an effective and valid driving licence and if so, to what effect?OPR-4

4. Whether the vehicle was being driven in the contravention of terms and conditions of insurance policy?OPR-4

5. Whether the claim petition is filed in collusion with respondents No.1 to 3?OPR-4.

6. Relief.”

3. The parties led their respective evidence.

4. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.1,50,000/- as compensation to the claimant, on account of death of Lal Bahadur, along with interest 6% per annum from the date of filing of claim petition till realization, payable by respondents No.1 and 2 jointly and severally. However, Insurance Company was directed to make the payment but was given a right to recover the same from respondents No.1 and 2 as respondent No.1 was not holding a valid driving licence and there was violation of terms and conditions of insurance policy.

5. Feeling aggrieved, the appeal in hand has been preferred. The material on file has been perused and parties have been heard.



6. The only issue required to be determined in the present appeal relates to the assessment of compensation. Therefore, the entire facts regarding the manner of the accident are not required to be reproduced in detail, as the Tribunal has already held under issue No.1 that the accident occurred due to the rash and negligent driving on the part of respondent No.1 while driving offending vehicle and Insurance Company initially was liable to pay compensation and Insurance Company was given a right to recover the same from respondents No.1 and 2. No appeal or cross-objections have been filed by respondents, challenging the said finding and accordingly finding on issue No.1 is not required to be interfered with and the same is affirmed.

7. Under Issue No.3, the Insurance Company has been exonerated of its liability to indemnify the insured but has been given a right to recover the awarded amount from respondents No.1 and 2 after making payment to claimant as the driver was not possessing a valid driving licence and there was thus violation of the terms and conditions of the insurance policy.

8. Learned counsel for the appellants argued that the Tribunal has not appreciated the facts of the case and evidence on file in the correct perspective while assessing the compensation which is grossly inadequate. Learned counsel contended that no future prospects have been added to the income of the deceased and since deceased was 20 years of age, 40% amount should have been added to the monthly income towards future prospects. Learned counsel contended that multiplier of 18 ought to have been applied to the loss of dependancy. Likewise, compensation has not been awarded under conventional heads i.e. 'loss of consortium', 'loss of estate' and 'funeral expenses' and he prayed that



compensation be duly enhanced. In support of his contentions, learned counsel for the appellants has relied upon 2009(6) SCC 121- **Sarla Verma and others Vs. Delhi Transport Corporation and Another**, 2017 (16) SCC 680-**National Insurance Co. Ltd Vs. Pranay Sethi and Other**, 2018 (4) R.C.R. (Civil) 333 **Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram & Others** and (2021) 11 SCC 780 **United India Insurance Co. Ltd. Vs. Satinder Kaur**.

9. On the other hand, learned counsel for respondents argued that the award in question is well reasoned and justified. The material on file has been appreciated in the correct perspective while assessing the compensation and no interference in the same is thus called for.

10. The claimant is the mother of the deceased namely Lal Bahadur. As per her version, while appearing as PW1, deceased was working as a Cook at Azad Hotel, Durjanpur and he used to earn Rs.3,000/- per month. The Tribunal after noticing the fact that the claimant herself was 60 years of age and deceased would have got married in future, awarded her a sum of Rs.1,50,000/- in lump sum as compensation. However, the compensation has not been adequately assessed in consonance with the settled law.

11. The testimony of claimant that the deceased was working as a Cook has gone uncontroverted and as such, it has to be believed that deceased used to work as a Cook. The accident had taken place on March, 2000 and some amount of guess work thus has to be applied while assessing the monthly income. The deceased was a cook and in such cases, the Court is required to ensure just



compensation based on preponderance of probabilities. Where the deceased is working in unorganized sector, strict proof of income is not mandatory and notional income can be reasonably assessed based on the social status and facts and circumstances of the case. Hon'ble Supreme Court while deciding Civil Appeal No.15021 of 2024 titled **Karamjit Singh Vs. Amandeep Singh and another** vide judgment dated 17.12.2024 has held that a carpenter has to be treated as a skilled person and it will be unfair to classify a carpenter as an unskilled worker. Hon'ble Supreme Court in 2019 (5) RCR (Civil) 884, **Chameli Devi and others Vs. Jivrali Mian and others**, has assessed the monthly income of a carpenter to be Rs.5000/- per month in the year 2001 and it was further held that in such cases where deceased is engaged in such type of profession, claimants can only lead oral evidence.

12. In the present case, the accident had taken place in the year 2000 and it can be assumed that the deceased who was a cook must be earning at least Rs.3,000/- per month while working as a cook. Accordingly, income of deceased is taken as Rs.3,000/- per month as pleaded by claimant.

13. Deceased was unmarried and 20 years of age. As such, 40% amount has to be added to the monthly income of the deceased towards future prospects in view of law laid down in **Pranay Sethi's case (supra)**, which takes his income to **Rs.4,200/- per month (Rs.3,000/- + Rs.1,200/-)**.

14. The petition in hand has been instituted by mother of the deceased. Accordingly, it is held that deceased has left behind one dependent and 50% of the income thus has to be deducted towards personal and living expenses. After deducting a sum of Rs.2,100/- towards personal expenses, the monthly loss of



dependency comes out to **Rs.2,100/- (Rs.4,200/- - Rs.2,100/-)** and the annual loss of dependency comes out to **Rs.25,200/- per annum (Rs.2,100/- X 12)**.

15. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 18 has to be applied as deceased was 20 years of age and after applying the same, the loss of dependency comes to **Rs.4,53,600/- (Rs.25,200/- X 18)**.

16. In addition to this, claimant (mother of the deceased) is held entitled to a sum of **Rs.70,000/-** under conventional heads i.e. **Rs.40,000/-** towards '**loss of consortium**', **Rs.15,000/-** towards '**loss of estate**' and **Rs.15,000/-** on account of '**funeral expenses**', as per law laid down in **Pranay Sethi's case (supra)**, which takes the compensation to **Rs.5,23,600/-**.

17. Accordingly, the compensation to be awarded to the appellant/claimant is assessed as under:-

S.No.	Under Head	Compensation awarded by the High Court
1.	Monthly income of deceased	Rs.3,000/- per month
2.	Age of deceased	20 years
3.	Future prospects @ 40%	Rs.1,200/-
4.	Total income	Rs.4,200/-
5.	Number of dependents	1
6.	Deduction towards personal expenses of the deceased (50%)	Rs.2,100/-
7.	Monthly loss of dependency	Rs.2,100/- (Rs.4,200/- - Rs.2,100/-)
7.	Annual loss of dependency	Rs.25,200/- (Rs.2,100/- X 12)
8.	Multiplier	18
9.	Compensation on account of Loss	Rs.4,53,600/-



	of dependency	
10.	Compensation under conventional head	Rs.70,000/-
	Total Compensation	Rs.5,23,600/- (Rounded to Rs.5,24,000/-)
	Interest	9%

18. Resultantly, the appeal in hand is partly accepted with costs and appellant is held entitled to a sum of **Rs.5,24,000/-** as compensation. The enhanced compensation thus comes out to **Rs.3,74,000/- (Rs.5,24,000/- - Rs.1,50,000/-)** over and above the compensation awarded by the Tribunal payable alongwith interest at the rate of 9% per annum from the date of filing of claim petition i.e. 3.4.2001, till realization payable by Insurance Company- respondent No.4, which shall have a right to recover the same from respondents No.1 and 2.

19. Registry is directed to email the authenticated copy of the award to the respondent Insurance Company in terms of directions issued by the Hon'ble Supreme Court in Writ Petition (Civil) No.534 of 2020 titled ***Bajaj Allianz General Insurance Company Versus Union of India and others***, decided on 16.03.2021 and Insurance Company shall comply with the directions as issued under Clause (F) of the said judgment.

20. Pending misc. application(s), if any, shall also stand disposed of.

(Yashvir Singh Rathor)
Judge

July 7, 2026
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No